United Nations A/HRC/WGAD/2017/49

General Assembly

Distr.: General
22 September 2017

Original: English

Human Rights Council
Working Group on Arbitrary Detention

Opinions adopted by the Working Group on Arbitrary Detention at its seventy-ninth session, 21-25 August 2017

Opinion No. 49/2017 concerning Siamak Namazi and Mohammed Baqer Namazi (Islamic Republic of Iran)

1. The Working Group on Arbitrary Detention was established in resolution 1991/42 of the Commission on Human Rights, which extended and clarified the Working Group's mandate in its resolution 1997/50. Pursuant to General Assembly resolution 60/251 and Human Rights Council decision 1/102, the Council assumed the mandate of the Commission. The mandate of the Working Group was most recently extended for a three-year period in Council resolution 33/30 of 30 September 2016.

2. In accordance with its methods of work (A/HRC/33/66), on 23 May 2017 the Working Group transmitted to the Government of the Islamic Republic of Iran a communication concerning Siamak Namazi and Mohammed Baqer Namazi. The Government has not replied to the communication. The State is a party to the International Covenant on Civil and Political Rights.

3. The Working Group regards deprivation of liberty as arbitrary in the following cases:

(a) When it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of his or her sentence or despite an amnesty law applicable to him or her) (category I);

(b) When the deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the Covenant (category II);

(c) When the total or partial non-observance of the international norms relating to the right to a fair trial, established in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of such gravity as to give the deprivation of liberty an arbitrary character (category III);

(d) When asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy (category IV);

(e) When the deprivation of liberty constitutes a violation of international law on the grounds of discrimination based on birth, national, ethnic or social origin, language, religion, economic condition, political or other opinion, gender, sexual orientation, disability, or any other status, that aims towards or can result in ignoring the equality of human beings (category V).

GE.17-16701(E)

Please recycle

Submissions

Communication from the source

4. Siamak Namazi, born in 1971, is an Iranian-American dual citizen. Born in the Islamic Republic of Iran, he was naturalized and became an American citizen in 1993. He usually resides in Dubai, United Arab Emirates.

5. The source reports that Siamak Namazi has lived in numerous countries, including the Islamic Republic of Iran and the United States of America, and that he moved to the United Arab Emirates in 2007. Also in 2007, he was recognized by the World Economic Forum as a Young Global Leader. He most recently worked as head of strategic planning for the Middle East and North Africa region at a petroleum company in Dubai from 2013 to 2015. He has reportedly never engaged in politics.

Interrogations, arrest and detention of Siamak Namazi

6. According to the source, on 18 July 2015, Mr. Namazi was intercepted on his way into Tehran airport by officers of the Islamic Revolutionary Guard Corps dressed in civilian clothes. He intended to travel back to the United Arab Emirates after a weekend visit with his parents in Tehran. The Revolutionary Guard officers momentarily showed him a document that they claimed to be a search warrant and order preventing him from leaving the country. In the few seconds that he was able to read the document, he reportedly saw the phrase "collaboration with the Young Global Leaders".

7. The officers reportedly escorted Mr. Namazi to a parked car in the airport car park and forced him into the back seat. They then questioned him for several hours. All of his electronic devices, including his laptop computer, tablet and mobile devices were immediately confiscated, and his United States and Iranian passports were seized. When the officers had finished their questioning, they told Mr. Namazi that they would "keep in touch" and instructed him not to leave Tehran. They gave him a handwritten receipt of the confiscated items.

8. The source reports that, for the following three months, Siamak Namazi was interrogated regularly by officers of the Revolutionary Guard. He would receive an anonymous telephone call instructing him of a time and place to present himself. The time and frequency of the interrogations were unpredictable. At first, interrogations happened nearly every day, then only two or three times per week. Sometimes, several days would pass without an interrogation. The interrogations reportedly took place in private meetings at an unmarked location, and the primary focus of the questioning was Mr. Namazi's association with the West. The officers reportedly accused him of being a spy for the West and would repeatedly tell him to "prove your innocence" and "admit it". On several occasions, the officers reportedly staged an arrest scene to scare him. While he was being questioned, they would arrange for screeching tyre sounds outside and would tell him he was going to be taken to prison.

9. According to the source, Mr. Namazi had hired an attorney to represent him, but the lawyer's ability to defend him was severely limited. He was reportedly told that it was an official policy that anyone accused of a crime related to national security may only be represented by an "approved lawyer". He repeatedly asked to see the list of approved lawyers, but was ultimately never shown the purported list. As a result, he did not have a lawyer who could be present with him during any of the interrogations.

10. The source reports that Mr. Namazi was arrested on 13 October 2015 by officers of the Revolutionary Guard for alleged espionage and collusion with an enemy State without presenting any formal evidence or warrant. He was reportedly arrested at an interrogation location where he had been reporting regularly for the previous three months. The source notes that, while it is possible that Mr. Namazi was briefly shown a document regarding the purported legal basis for his arrest at the time of his indictment, his lawyers have not had access to such a document. The indictment reportedly occurred in secret and no documents have been made public or provided to his lawyers.

11. According to the source, since the date of the arrest, Mr. Namazi has been held in ward 2A of Evin Prison, which is under the control of the Revolutionary Guard. The source reports that exact charges, with specific references to Iranian law, were not presented to his family or lawyers during his pretrial detention. The source notes that, while it is possible that such charges were provided to Mr. Namazi privately during his detention, this is not likely. He has been detained since his reported conviction for "collaboration with a hostile Government", in reference to the United States. The legislation later applied to his conviction was article 508 of the Islamic Penal Code, which states that anyone who cooperates by any means with foreign States against the Islamic Republic of Iran, if not considered a *mohareb* (enemy of God), shall be sentenced to 1 to 10 years' imprisonment.

Arrest and detention of Mohammed Baquer Namazi

12. Mohammed Baquer Namazi, born in 1936, is an Iranian-American dual citizen. He is married and is the father of Siamak Namazi. He usually resides in Tehran.

13. The source reports that Baquer Namazi had been Governor of the Iranian province of Khuzestan under the Shah. When the Government was overthrown in 1979, he left the Government and continued to live in the Islamic Republic of Iran for several years. Facing mounting pressure, he reportedly fled the country in 1983 and ultimately settled in the United States, where he was naturalized and took citizenship. He reportedly dedicated the rest of his career to the eradication of poverty. From 1984 to 1997, he served as a representative of the United Nations Children's Fund (UNICEF) and worked in various countries, focusing on vulnerable people and the provision of aid for women and children affected by war. He retired from his UNICEF work in 1997, but continued to work for the eradication of poverty as a civil society volunteer.

14. The source reports that Mr. Namazi reportedly attempted to visit his son at Evin Prison two to three times each week after his arrest and imprisonment, but was never granted access, even when he had letters from prison officials granting him the right to see his son.

15. On or about 21 February 2016, while travelling to see other family members in Dubai, Baquer Namazi's wife received a call from Evin Prison informing her that special permission had been granted for Baquer Namazi to visit his son, but that the permission was valid only for a visit on 24 February 2016. At the same time, it had been reported that Siamak Namazi had started a hunger strike. Baquer Namazi quickly changed his travel plans to return to Tehran.

16. The source reports that Baquer Namazi was arrested at the passport control office of Tehran airport on his arrival there on 22 February 2016. He was reportedly intercepted by approximately seven or eight members of the Revolutionary Guard. He was then interrogated by officers of the Revolutionary Guard and escorted to his home, which was searched extensively.

17. According to the source, the officers of the Revolutionary Guard did not show an arrest warrant issued by a judicial authority. While searching his house, they presented a document that they alleged to be a search warrant and authorization to present Mr. Namazi to a magistrate, but this could not be verified as there was no lawyer present and a copy of the document has never been provided. Regardless, the source highlights that the document was not an arrest warrant and, in fact, the officers guards reportedly assured Mr. Namazi and his wife that he was not being arrested. During the search, the guards reportedly confiscated Mr. Namazi's personal electronic devices, his passports and various personal photographs and documents. Days later, copies of many of the photographs were reportedly broadcast by the Iranian State media in coverage connected to the case.

18. Throughout the search, Baquer Namazi asked about his son, but the guards reportedly refused to give him any information. Mr. Namazi was taken to Evin Prison the same night and brought into the same Revolutionary Guard-controlled wing as his son. A few days after his arrest, Mr. Namazi left a message on the home answering machine — the first contact since his arrest — wherein he asked that the family keep his arrest quiet and conveyed that he was facing the same broad charges as his son.

19. The source notes that, while it is possible that Baquer Namazi was verbally told that he was being arrested on charges of collaboration with the United States, no special legal basis was presented in writing to him at the time of the arrest or later during his detention.

20. According to the source, the authorities have subsequently imputed alleged espionage and collusion with an enemy State as the reasons for Mr. Namazi's arrest without presenting any formal evidence. The authorities did not present any exact charges during the pretrial detention. He has been detained since his reported conviction for "collaboration with a hostile Government", in reference to the United States, under the same article 508 of the Islamic Penal Code.

21. At the time of the submission by the source, Mr. Namazi continued to be held in Ward 2A of Evin Prison.

Trial and appeal

22. According to the source, the first and only hearing at the trial level occurred early in October 2016: on 1 October for Siamak Namazi and on 5 October for Baquer Namazi. Both hearings were reportedly secret and excluded members of the press and the public from attending. The hearings took place before the Head of the 15th Branch of the Islamic Revolutionary Court in Tehran, who is allegedly well known for meting out harsh sentences on political cases.

23. Before the hearings, Messrs. Namazi had extremely limited access to legal representation. They were reportedly only allowed to meet with their attorneys for 30 minutes a few days before the hearing, despite numerous attempts to meet beforehand. The attorneys were only provided with access to court files and evidence a few days in advance of the trials, making it practically impossible to prepare a meaningful defence. Furthermore, they were only allowed to view the files and were not able to make or retain their own copies. It is reportedly unknown whether such files were even complete.

24. According to the source, the trial hearings only lasted around two hours, during which time Messrs. Namazis were reportedly denied fundamental due process rights. They were not allowed to present any evidence or call witnesses and were denied the opportunity to challenge any charges or evidence meaningfully, despite the fact that the Revolutionary Guard had been conducting relentless interrogations for months in advance and without allowing access to legal representation.

25. On 17 October 2016, both individuals were reportedly sentenced to 10 years in prison on the charges of "collusion with an enemy State", in reference to the United States. This is reportedly the maximum possible penalty that can be imposed for those criminal offences under article 508 of the Islamic Penal Code. No written copy of the verdicts has been provided to the Namazis. At the same time, Revolutionary Guard-affiliated websites and media reportedly ran a continuous negative campaign against the two men, calling them United States "infiltrators" and showing copies of their passports and photographs, which had been taken from the family's house by officers of the Revolutionary Guard.

26. According to the source, Messrs. Namazis immediately appealed the convictions and sentences, but could only do so in the most general sense as they had no access to any of the evidence or the final verdict of the trial court.

27. The source reports that an appeal hearing took place on 1 March 2017 before the 36th Branch of the Appeals Court, during which both cases were considered. In total, the hearing only lasted two to three hours. Siamak Namazi was reportedly brought to the hearing late because the guards escorting him claimed they had got lost, although the sources allege this was likely to be a deliberate attempt to undermine the appeal process. The judge did not reschedule or extend the hearing to make up for lost time. As a result, Baquer Namazi's case was considered for approximately two hours, while that of Siamak Namazi was only considered for 30 to 45 minutes.

28. According to the source, the appeal was supposed to have been heard by a panel of three judges, but only one judge was actually present. Press and the public were also barred from the appeal hearing. There is reportedly no indication as to when the Appeals Court might issue a decision.

Current conditions

29. According to the source, the Namazis are being held in Ward 2A of Evin Prison. This is a special wing of the prison that is controlled solely by the Revolutionary Guard and allegedly operates with no semblance of transparency or legality. Siamak Namazi has reportedly been intimidated and has continually undergone lengthy interrogations by officers of the Revolutionary Guard, even after his conviction. He continues to be subjected to extended periods of solitary confinement. His cell is dark, cold and damp and lacks even a bed, forcing him to sleep on the concrete floor. He was initially not provided with warm clothing, even as temperatures dropped in winter. He has allegedly been tortured by the officers and has been beaten, tazered and forced to watch government propaganda attacking him and showing his father in prison.

30. According to information received, Mr. Namazi has also been told at times that his father is gravely ill and has been taken to the hospital. Mr. Namazi reportedly started a hunger strike during his incarceration and has already lost approximately 12 kilograms during his time in detention. Despite reporting ailments to the Revolutionary Guard officers, he has not received medical treatment. The source reports that the physical and mental suffering intentionally inflicted on Mr. Namazi, combined with his extended isolation, have caused his mental and physical well-being to deteriorate. His conversations with his family members have made them seriously concerned that he may now be suicidal.

31. Baquer Namazi, who is 81 years old, has reportedly been held in similarly harsh prison conditions, including extensive periods of solitary confinement. He suffers from serious heart conditions, including arrhythmia, which require him to take special medications. He has previously undergone triple bypass surgery owing to his heart condition. He has lost at least 14 kilograms since being imprisoned and his energy is greatly diminished. The source reports that, in a highly unusual move that demonstrates the severity of his current condition, the Revolutionary Guard transferred Mr. Namazi to an external hospital for a period of several days on two separate occasions since his arrest, without providing any explanation to his family. On 8 April 2017, he had a Holter monitor attached to him. It is reportedly possible that he requires a pacemaker owing to his arrhythmia — which had been noted as a forthcoming medical issue by his personal physician prior to his arrest and detention — and now requires immediate medical attention. The family of Mr. Namazi has requested urgently that his own heart specialist be allowed to see him, but that request has not been granted, and the Office of the State Medical Examiner has informed the family that it may take "a few months" for them to conduct a medical review of his case.

32. The Namazis have reportedly been detained with extremely limited access to their family members for more than a year. They have until recently only been allowed visitors once a month, while other detainees in the same section of the prison are reportedly allowed to have weekly visits. Furthermore, they have only been allowed to receive visits from the mother of Siamak Namazi, who is the wife of Baquer Namazi. The monthly visit to Baquer Namazi has lasted roughly 45 minutes, and Siamak Namazi receives one visit per month lasting only 15 to 20 minutes. Prior to 28 February 2017, the father and son had been prohibited from seeing each other, despite the fact that they were being held in the same section of the prison.

Categories of the Working Group

33. The source asserts that the detention of Messrs. Namazi constitutes an arbitrary deprivation of their liberty under categories II and III of the categories applicable to the cases under consideration by the Working Group.

Category II

34. The source submits that the arrest and detention by the Government of the Islamic Republic of Iran of the Namazis was a direct reprisal for exercising their right to freedom of association. The source puts forward that their current detention is directly attributable to their exercising the right to freedom of association, as the entire case against them has been based on their association with Western organizations. Both individuals have United States

citizenship and have spent time working there. Siamak Namazi was educated in the United States and has affiliations with several institutions based there. In addition, throughout the interrogations, trial and conviction of Mr. Namazi, those affiliations were continuously cited as a primary basis for the suspicions of the Government against him. The source asserts that perhaps the clearest demonstration that the targeting of the Namazis stems from their association with the West is the propaganda video posted online by the judicial news service of the Islamic Republic of Iran roughly one year after the arrest of Siamak Namazi. In it, images of his arrest are directly juxtaposed with an image of his United States passport and "a montage of anti-American-themed images".

Category III

35. The source submits that, due to the fact that the Government has violated numerous procedural requirements under both international and domestic law in this case, the continued detention of the Namazis is arbitrary under category III. According to the source, the Government arrested the two men without a proper warrant; held them in harsh prison conditions for months without charge; detained them with extremely limited access to their family members; failed to provide an independent and impartial tribunal; failed to provide a public hearing; interfered with their right to prepare a defence and call and examine witnesses; and withheld all evidence from the defence. In addition, no valid or credible evidence against them has been presented.

36. Furthermore, the Government interfered with their right to the presumption of innocence; substantially limited their right to access to counsel; substantially limited their right to an adequate appellate review according to law; and has continuously denied medically appropriate detention conditions for the Namazis, constituting cruel, inhuman and degrading treatment. In that respect, the source notes that, without intervention, it is unclear how much longer the Namazis can withstand the physical and psychological distress imposed by the Revolutionary Guard. There is reportedly a great risk that the suffering inflicted on the two men may cause irreversible damage to their physical and mental health, or even death.

Response from the Government

37. On 23 May 2017 the Working Group transmitted the allegations from the source to the Government under its regular communications procedure. The Working Group requested the Government to provide, by 24 July 2017, detailed information about the current situation of Mr. Siamak Namazi and Mr. Mohammed Baquer Namazi and any comments on the source's allegations.

38. The Working Group regrets that it did not receive a response from the Government, nor did the Government request an extension of the time limit for its reply, as provided for in the Working Group's methods of work.

Discussion

39. In the absence of a response from the Government, the Working Group has decided to render the present opinion, in conformity with paragraph 15 of its methods of work.

40. The Working Group has in its jurisprudence established the ways in which it deals with evidentiary issues. If the source has established a prima facie case for breach of international requirements constituting arbitrary detention, the burden of proof should be understood to rest upon the Government if it wishes to refute the allegations (see A/HRC/19/57, para. 68). In the present case, the Government has chosen not to challenge the prima facie credible allegations made by the source.

41. The source has submitted that the detention of Messrs. Namazi falls under categories II and III. The Working Group shall consider the allegations under the two categories in turn.

42. The source has submitted that the detention of Messrs. Namazi falls under category II as their detention was a direct reprisal for having exercised their right to freedom of association in accordance with article 22 of the Covenant. The source has submitted that the

affiliations of the Namazis with Western organizations was the sole reason for their arrest and subsequent conviction as, throughout the interrogations, trial and conviction, those affiliations were continuously cited as a primary basis for the suspicions of the Government against them.

43. The Working Group notes that the present case follows a pattern that is evident to the Working Group in the way that those affiliated with different pro-democracy institutions of the West — especially those with dual nationality — are treated in the Islamic Republic of Iran. The Working Group considers that the source has established a prima facie case that the arrest and detention of the Namazis were motivated by a discriminatory factor, namely, their status as dual Iranian-United States nationals and their links with various organizations located outside of the Islamic Republic of Iran. The Working Group has considered several facts presented by the source that the Government of the Islamic Republic of Iran has not disputed. First, Messrs. Namazi are being detained on the basis of their conviction for "collaboration with a hostile Government", in reference to the United States, and their links with the United States and "Western organizations" have been the main thrust of all interrogations and allegations. Second, throughout the investigative stage of their trial, the sole focus of the authorities has been the past and present affiliations of Messrs. Namazi with those various organizations, with specific emphasis on their links with the United States. Third, a negative campaign was made public by the Iranian media in October 2016 against the Namazis, stating them to be United States "infiltrators" and showing copies of their passports and photographs, which had been taken from the family's house by the Revolutionary Guard.

44. The Working Group has made findings of arbitrary detention with respect to several cases involving dual nationals in the Islamic Republic of Iran.[1] In addition, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran has referred in a recent report to the detention of dual nationals (see A/71/418, paras. 36-38). The Working Group considers that there is an emerging pattern involving the arbitrary deprivation of liberty of dual nationals in the Islamic Republic of Iran.

45. Furthermore, there is no evidence that Siamak Namazi or Baquer Namazi had had a criminal record, including in relation to national security offences, and there is nothing to indicate that they had ever acted against the national interests of the Islamic Republic of Iran. In fact, Siamak Namazi had been in the country for the sole purpose of visiting his family, while Baquer Namazi was a retired resident of the Islamic Republic of Iran. The Working Group therefore considers that the Namazis were targeted on the basis of their "national or social origin" as dual nationals. In the present case, the Working Group is not convinced by the arguments presented by the source that the arrest of Messrs. Namazi was based on their exercise of their right under article 22 of the Covenant. The Working Group notes that, at the time of their arrests, neither of the men had been engaging in the exercise of those rights and there is thus an insufficient basis for the Working Group to conclude that the arrest and detention of Messrs. Namazi were linked to the exercise of any specific right, and therefore falling within category II. However, there is a sufficient basis to conclude that they have been arbitrarily deprived of their liberty according to category V owing to the discrimination against them as dual nationals.

46. The source also submits that the arrest and subsequent detention of the Namazis fall within category III. The source submits that the Namazis were arrested without a proper warrant, held in harsh prison conditions for months without charge, detained with extremely limited access to their family members, not provided with an independent and impartial tribunal and not provided with a public hearing. The source also submits that the Government of the Islamic Republic of Iran interfered with their right to prepare a defence and call and examine witnesses, and withheld all evidence from the defence.

47. The Working Group considers that the source's allegations disclose violations of the right of Messrs. Namazi to a fair trial. Specifically, they have been denied their right to be informed promptly of the charges against them under article 14 (3) (a) of the Covenant, and their right to legal representation under article 14 (3) (b) and (d) of the Covenant. They

[1] See, for example, opinions No. 7/2017, No. 28/2016, No. 44/2015 and No. 18/2013.

have also been denied their right to examine witnesses against them and denied proper access to all the evidence against them, in violation of article 14 (3) (e) of the Covenant. Furthermore, they have both been denied their right to defend themselves during the trials as they were prevented from speaking in the court except to answer questions posed by the judge, amounting to a violation of article 14 (3) (d) of the Covenant.

48. The Working Group notes that Messrs. Namazi have not been provided with written judgements, in violation of article 14 (1) of the Covenant, and that the Government of the Islamic Republic of Iran has failed to invoke any reasons justifying this. Moreover, the Working Group notes that the failure to provide a written judgement adversely affects the right to appeal, in violation of article 14 (5) of the Covenant. As indicated by the Human Rights Committee in paragraph 49 of its general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial:

> The right to have one's conviction reviewed can only be exercised effectively if the convicted person is entitled to have access to a duly reasoned, written judgement of the trial court, and, at least in the court of first appeal where domestic law provides for several instances of appeal,[2] also to other documents, such as trial transcripts, necessary to enjoy the effective exercise of the right to appeal.

49. The Working Group is also of the view that Siamak Namazi had not benefited fully from the presumption of innocence as encapsulated in article 14 (2) of the Covenant. In the present case, the source submits that a video by the judicial news service of the Islamic Republic of Iran was posted online in which images of the arrest of Mr. Namazi were directly juxtaposed with an image of his United States passport and "a montage of anti-American-themed images". The Working Group notes that this was just before or at the time of the trial of Mr. Namazi and that the Government of the Islamic Republic of Iran had the opportunity but failed to provide an explanation to those allegations.

50. In paragraph 30 of its general comment No. 32 (2007), the Working Group emphasized that the right to be presumed innocent as per article 14 (2) of the Covenant means not only that public authorities should refrain from prejudging the outcome of any trials, but also that the media should avoid news coverage undermining the presumption of innocence. In the present case, information that was clearly prejudicial to Siamak Namazi was made public by the judicial news service, an official State news service. The Working Group finds that this constituted a violation of article 14 (2) of the Covenant in relation to Mr. Namazi.

51. Taking into account all the violations enumerated above, the Working Group concludes that the violations of article 14 of the Covenant are of such gravity as to give the deprivation of liberty of the Namazis an arbitrary character, falling within category III.

52. Furthermore, the Working Group wishes to record its grave concern about the deteriorating health of Messrs. Namazi, particularly the allegations made by the source that Baquer Namazi has not been provided with adequate medical care and that this may result in irreparable harm to his health and indeed poses a real risk to his life. The Working Group considers that their treatment violates their right under article 10 (1) of the Covenant, to be treated with humanity and with respect for their inherent dignity, and falls significantly short of the requirements of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), in particular rules 24-27, 30-31, 37, 43 and 45.

53. Finally, the Working Group notes with concern the silence on the part of the Government in not availing itself of the opportunity to respond to the serious allegations made in the present case and in other communications to the Working Group.[3] The

[2] See communications No. 903/1999, *Van Hulst v. The Netherlands*, para. 6.4; No. 709/1996, *Bailey v. Jamaica*, para. 7.2; No. 663/1995, *Morrison v. Jamaica*, para. 8.5.

[3] See, for example, the opinions of the Working Group on the Islamic Republic of Iran, Nos. 50/2016, 28/2016, 25/2016, 2/2016, 1/2016, 44/2015, 16/2015, 55/2013, 52/2013, 28/2013, 18/2013, 54/2012, 48/2012, 30/2012, 8/2010, 2/2010, 6/2009, 39/2008, 34/2008, 39/2000, 14/1996, 28/1994 and 1/1992. In the past, the Islamic Republic of Iran has provided information to the Working Group on various

Working Group also refers the present case to the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.

54. The Working Group would like to reiterate[4] that it would welcome an invitation to conduct a country visit to the Islamic Republic of Iran so that it can engage with the Government constructively and offer assistance in addressing concerns relating to the arbitrary deprivation of liberty. In that context, the Working Group notes that, on 24 July 2002, the Government issued a standing invitation to all thematic special procedure mandate holders.

Disposition

55. In the light of the foregoing, the Working Group renders the following opinion:

> The deprivation of liberty of Mr. Siamak Namazi and Mr. Mohammed Baquer Namazi, being in contravention of articles 9, 10 and 11 of the Universal Declaration of Human Rights and of articles 9, 10, 14 and 26 of the International Covenant on Civil and Political Rights, is arbitrary and falls within categories III and V.

56. Consequent upon the opinion rendered, the Working Group requests the Government to take the steps necessary to remedy the situation of Mr. Siamak Namazi and Mr. Mohammed Baquer Namazi without delay and bring it into conformity with the standards and principles set forth in the international norms on detention, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

57. The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Siamak Namazi and Mr. Mohammed Baquer Namazi immediately and accord them an enforceable right to compensation and other reparations, in accordance with international law.

58. In accordance with paragraph 33 (a) of its methods of work, the Working Group refers the present case to the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran.

Follow-up procedure

59. In accordance with paragraph 20 of its methods of work, the Working Group requests the source and the Government to provide it with information on action taken in follow-up to the recommendations made in the present opinion, including:

(a) Whether Mr. Siamak Namazi and Mr. Mohammed Baquer Namazi have been released and, if so, on what date;

(b) Whether compensation or other reparations have been made to Mr. Siamak Namazi and Mr. Mohammed Baquer Namazi;

(c) Whether an investigation has been conducted into the violation of Mr. Siamak Namazi and Mr. Mohammed Baquer Namazi's rights and, if so, the outcome of the investigation;

(d) Whether any legislative amendments or changes in practice have been made to harmonize the laws and practices of the Islamic Republic of Iran with its international obligations in line with the present opinion;

(e) Whether any other action has been taken to implement the present opinion.

60. The Government is invited to inform the Working Group of any difficulties it may have encountered in implementing the recommendations made in the present opinion and whether further technical assistance is required, for example, through a visit by the Working Group.

---

communications, see opinions Nos. 58/2011, 21/2011, 20/2011, 4/2008, 26/2006, 19/2006, 14/2006, 8/2003 and 30/2001.

[4] See opinions Nos. 9/2017, 7/2017, 28/2016, 25/2016 and 50/2015.

61. The Working Group requests the source and the Government to provide the above information within six months of the date of the transmission of the present opinion. However, the Working Group reserves the right to take its own action in follow-up to the opinion if new concerns in relation to the case are brought to its attention. Such action would enable the Working Group to inform the Human Rights Council of progress made in implementing its recommendations, as well as any failure to take action.

62. The Working Group recalls that the Human Rights Council has encouraged all States to cooperate with the Working Group and requested them to take account of its views and, where necessary, to take appropriate steps to remedy the situation of persons arbitrarily deprived of their liberty, and to inform the Working Group of the steps they have taken. [5]

[*Adopted on 22 August 2017*]

[5] See Human Rights Council resolution 33/30, paras. 3 and 7.